

By: Capriglione

H.B. No. 3617

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a business investment fund in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 4, Government Code, is amended by adding Chapter 486 to read as follows:

CHAPTER 486. BUSINESS INVESTMENT FUND

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 486.001. DEFINITIONS. In this chapter:

(1) "Fund" means the business investment fund established under Subchapter C.

(2) "Investment manager" means the private equity fund manager with which the comptroller contracts under Subchapter B.

(3) "Investor" means a person, including this state, who makes an investment in the fund.

(4) "Qualified business" means a business entity that meets the requirements of Section 486.002.

Sec. 486.002. REQUIREMENTS OF QUALIFIED BUSINESS. For purposes of this chapter, a business entity is a qualified business if the entity:

(1) engages in business in this state at the time the investment manager makes an investment of fund money in the entity;

(2) intends to continue engaging in business in this state following the investment described by Subdivision (1); and

1 (3) agrees to use money from the investment described
2 by Subdivision (1) only to support the entity's business operations
3 in this state.

4 Sec. 486.003. RULES. The comptroller shall adopt rules to
5 implement this chapter, including rules regarding the selection of
6 an investment manager.

7 SUBCHAPTER B. INVESTMENT MANAGER

8 Sec. 486.051. SELECTION OF INVESTMENT MANAGER. The
9 comptroller shall select a private equity fund manager to act as an
10 investment manager to administer the fund.

11 Sec. 486.052. REQUEST FOR PROPOSALS; NOTICE. (a) The
12 comptroller shall select a private equity fund manager to act as the
13 fund's administrator only after soliciting and evaluating requests
14 for proposals as prescribed by this section.

15 (b) The comptroller shall publish a notice of a request for
16 proposals in newspapers of general circulation in this state once
17 each week for two consecutive weeks before a date specified by the
18 comptroller as the date by which the comptroller will begin
19 accepting proposals. The notice must contain:

20 (1) a general description of the subject of the
21 proposed contract; and

22 (2) the location where the request for proposals may
23 be obtained.

24 (c) The request for proposals must include:

25 (1) instructions and information to a respondent
26 concerning the submission of a proposal, including the name and
27 address of the office where a proposal is to be submitted;

1 (2) instructions regarding the manner in which a
2 respondent may communicate with the comptroller, including the
3 names, titles, and telephone numbers of the individuals to whom the
4 communications shall be directed;

5 (3) a description of the factors and criteria the
6 comptroller will consider in evaluating proposals and the relative
7 importance of each factor or criterion;

8 (4) a description of the comptroller's evaluation
9 procedure; and

10 (5) a description of any documents that may be
11 incorporated by reference into the request for proposals, if the
12 request specifies where to obtain the documents and the documents
13 are readily available to all interested parties.

14 Sec. 486.053. EVALUATION OF SUBMITTED PROPOSALS. (a)
15 After the date specified for receiving requests for proposals, the
16 comptroller shall evaluate submitted proposals. The comptroller
17 may discuss a respondent's proposal with the respondent to clarify
18 or revise the proposal or the terms of the proposed contract.

19 (b) The comptroller may cancel a request for proposals at
20 any time before entering into a contract with a respondent.

21 Sec. 486.054. CONTRACT. (a) The comptroller shall select a
22 respondent to the request for proposals to act as the investment
23 manager for the fund and enter into a contract with the selected
24 respondent.

25 (b) The contract must specify:

26 (1) any standards or general limitations applicable to
27 investments of fund money; and

1 (2) the terms under which the comptroller or
2 investment manager may terminate the contract.

3 SUBCHAPTER C. ESTABLISHMENT AND OPERATION OF BUSINESS INVESTMENT

4 FUND

5 Sec. 486.101. FUND AS TRUST FUND. (a) In this section,
6 "financial institution" has the meaning assigned by Section
7 201.101, Finance Code.

8 (b) The business investment fund is a trust fund outside the
9 state treasury that is:

10 (1) held in a financial institution by the comptroller
11 as trustee on behalf of the investors; and

12 (2) administered by the comptroller through a contract
13 with the investment manager.

14 (c) The fund consists of:

15 (1) money of this state that is appropriated to the
16 comptroller for deposit in the fund and subsequent investment;

17 (2) money provided by other investors for deposit in
18 the fund and subsequent investment; and

19 (3) earnings on investments of fund money.

20 Sec. 486.102. PURPOSE OF FUND. The fund is established to
21 facilitate job creation and retention by businesses in this state.

22 Sec. 486.103. USES OF FUND MONEY. The investment manager
23 may use fund money only to:

24 (1) make investments in one or more qualified
25 businesses based on market terms;

26 (2) make other investments described by Section
27 486.153(b); and

1 (3) repay the principal of and pay interest on
2 investments made in the fund.

3 SUBCHAPTER D. INVESTMENTS IN FUND AND INVESTMENTS OF FUND MONEY

4 Sec. 486.151. INVESTMENTS. The investment manager shall
5 seek private equity funds to be investors in the fund.

6 Sec. 486.152. REPAYMENT OF INVESTMENT; RETURN. The
7 investment manager shall use fund money to repay an investor's
8 investment in the fund, including this state's investment, and pay
9 any interest on that investment.

10 Sec. 486.153. INVESTMENT REQUIREMENTS. (a) The investment
11 manager may invest fund money only in qualified businesses that the
12 investment manager anticipates will assist in achieving the purpose
13 of the fund specified by Section 486.102.

14 (b) The investment manager also may invest fund money for
15 limited periods in:

16 (1) cash deposited with a federally insured financial
17 institution;

18 (2) certificates of deposit in a federally insured
19 financial institution;

20 (3) investment securities that are:

21 (A) obligations of the United States or agencies
22 or instrumentalities of the United States; or

23 (B) obligations that are guaranteed fully as to
24 principal and interest by the United States;

25 (4) debt instruments that are:

26 (A) rated at least "A" or the equivalent by a
27 nationally recognized credit rating organization; or

1 (B) issued or guaranteed by an entity the
2 unsecured indebtedness of which is rated at least "A" or the
3 equivalent by a nationally recognized credit rating organization,
4 provided that the debt instruments in which the manager invests are
5 not subordinated to other unsecured indebtedness of the issuer or
6 guarantor; and

7 (5) obligations of this state or a municipality or
8 political subdivision of this state.

9 SECTION 2. Not later than January 1, 2016, the comptroller
10 of public accounts shall enter into a contract with the investment
11 manager selected to administer the business investment fund as
12 required by Chapter 486, Government Code, as added by this Act.

13 SECTION 3. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2015.